

The Honorable Robert J. Bryan

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID W. TIPPENS,

Defendant.

NO. CR16-5110 RJB

**STIPULATION OF THE PARTIES
REGARDING THE NIT AND RELATED
MATTERS**

The United States of America, by and through Annette L. Hayes, United States Attorney, and Matthew Hampton and Grady J. Leupold, Assistant United States Attorneys, and the Defendant, DAVID W. TIPPENS, and his attorney, Colin Fieman, hereby stipulate and agree to the following:

1. Between February 20 and March 4, 2015, the FBI maintained administrative control of a website operating on the anonymous Tor network as part of an investigation into individuals using that site to traffic in child pornography.

2. During this period, the FBI deployed a Network Investigative Technique (the "NIT") to computers that logged into this website pursuant to a warrant issued by a magistrate judge in the United States District Court for the Eastern District of Virginia.

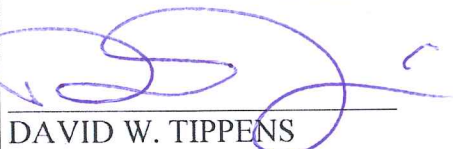
3. The purpose of the NIT was to obtain certain information from those computers to which it was deployed.


1 4. In order to deploy the NIT to those computers, the FBI used a computer
2 "exploit" to take advantage of an existing vulnerability that would allow the NIT to
3 execute on a target computer without the knowledge of the computer's user.

4 5. The government has not disclosed the exploit or vulnerability to the
5 defense. It has also not disclosed information related to the servers that received the
6 results from the deployment of the NIT. However, the Court has previously found in this
7 case that it is not required to do so.

8 6. It is possible that an exploit could make temporary or permanent changes to
9 the security settings of a user's computer that could allow someone to subsequently run
10 commands on that computer without the user's knowledge.

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12 DATED this 23rd day of February, 2017.

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15 DAVID W. TIPPENS
16 DEFENDANT

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18 COLIN FIEMAN
19 ATTORNEY FOR DAVID TIPPENS

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21 MATTHEW P. HAMPTON
22 GRADY J. LEUPOLD
23 ASSISTANT UNITED STATES ATTORNEYS
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